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States Should Take Steps Needed to Direct Child Support Payments Deducted From Tax Refunds to Children Payments Should Go to the Children They're Intended For

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In this and future tax filing seasons, states can help certain current and former Temporary Assistance for Needy Families (TANF) participants meet their basic needs by electing what's known as the "tax offset option." That is, states can elect to give families who are owed child support any support that the IRS deducts from a non-custodial parent's tax refund due to past-due child support, but only five states — Alaska, California, Pennsylvania, Vermont, and West Virginia — have done so. If states don't elect this option, the funds that are deducted are split between the federal and state government as repayment for previous TANF cash payments paid to the family.

The child support system can help custodial parents meet their children's basic needs and help them thrive. But, when child support is deducted from a noncustodial parent's tax refund, it only can help children if it goes to them. Especially this year, with many of the relief programs created during the pandemic to help struggling families winding down, child support should go to the children it's intended to support. Even after families leave TANF, they typically continue to have low incomes and struggle to afford the basics. Child support can help these families make ends meet.

By law, a family receiving cash assistance under TANF must turn over their rights to child support to the state. States either keep support payments as repayment for providing cash benefits or "pass through" some or all of it through to families. When a family stops receiving TANF cash assistance, they receive any child support collected on their behalf, unless it is collected through the IRS tax offset process.

States can elect the tax offset option provided under the Deficit Reduction Act of 2005 through their child support state plan. The option works differently for former and current TANF participants. For former participants, families in states that adopt the option directly receive the child support payment deducted from the tax refund; the state gives up its share of the collections and the federal government waives its share. For current participants in states adopting the option, families only receive the child support payment deducted from the tax refund if the state already

passes through child support to TANF participants. (Twenty-nine states including the District of Columbia currently pass through support to participants). In these cases, the state gives up its share of the collections and must reimburse the federal government for the federal share of collections over \$100 for a family with one child and over \$200 for a family with two or more children. (In states that don't pass through child support to TANF participants, the tax offset collections are not sent to the family, but are retained by the federal and state governments, even if the state has adopted the offset option.)

Key Reasons Why States Should Elect the Tax Offset Option, Especially This Year

Taking this option now can help families in important ways. First, many families with low incomes are still struggling in the pandemic economy. Child support payments can be a significant source of family income, and directing more support to families helps them cover essentials like food, school supplies, and children's clothing.¹ And child support receipt is associated with developmental benefits for children including enhanced school performance.² The tax offset option lets states shift their child support programs in a more family-centered direction.

Second, when states keep child support, noncustodial parents are less likely to follow through with their child support orders, which may result in non-payment and debt, pushing families deeper into poverty.³ Taking federal tax refunds to reimburse the government for assistance provided during times of need benefits neither children, who don't receive their noncustodial parent's support, nor noncustodial parents, who lose faith in the system to help them support their children and be the parents they would like to be.

Third, policies that withhold child support disproportionately harm Black and Latinx families. Most families involved in the child support system have low incomes, a group that in turn is disproportionately Black and Latinx due in large part to racial disparities in employment, education, and other areas.⁴ Most custodial parents are women (82 percent), and are disproportionately Black or Hispanic women (25 and 23 percent, respectively, compared to their 13 and 19 percent shares of all U.S. women).⁵

¹ Office of Child Support Enforcement, "The Child Support Program Is a Good Investment," Department of Health and Human Services, December 2016, https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf.

² *Ibid.*

³ Aspen Institute, "Paying Support to Families: Child Support Policy Fact Sheet," August 2020, https://www.aspeninstitute.org/wp-content/uploads/2020/09/ChildSupport_Distribution.pdf.

⁴ U.S. Census Bureau, "Custodial Mothers and Fathers and Their Child Support: 2017," <https://www2.census.gov/programs-surveys/demo/tables/families/2017/chlds17.pdf>.

⁵ Congressional Research Service, "The Child Support Enforcement (CSE) Program," updated January 7, 2021, <https://crsreports.congress.gov/product/pdf/IF/IF10113>.

Although reliable data on the race of *noncustodial* parents are limited, one study from 2005 estimates that half of all Black men aged 25-34 are noncustodial parents.⁶ Here again we can point to racial disparities. Research shows that Black men face multiple barriers to finding and maintaining stable, well-paying employment, including overrepresentation in low-wage work due to occupational segregation,⁷ and they are disproportionately targeted by the criminal legal system, with higher rates of arrest and incarceration,⁸ imposing barriers on maintaining a cohesive household.

Deducting child support from tax refunds but then not providing the resources to the children denies children the support they need and denies the noncustodial parents, often men of color struggling in low-paid jobs, another way to contribute financially to their children. Electing the tax offset option is one step states can take in a more equitable direction to ensure more child support reaches the children it's intended to support.

Another reason states should elect the tax offset option this year is that many noncustodial parents will be eligible for higher refunds, and state budgets are well-positioned to absorb the modest cost to the state of sending these support payments to families. A key reason that refunds will be higher is that the American Rescue Plan expanded the Earned Income Tax Credit (EITC), increasing the maximum EITC for working adults not raising children (from roughly \$540 to roughly \$1,500) and the income cap for them to qualify (from about \$16,000 to more than \$21,000 for unmarried filers and from about \$22,000 to more than \$27,000 for married couples), which will result in higher refunds at tax time.

And, as many states begin their legislative sessions, states overall have over \$80 billion in federal pandemic aid remaining, providing resources to offset the cost to the state of no longer taking child support payments collected from the IRS but sending them to the children those payments were intended for. Because families subject to the tax offset for child support payments likely meet the definition of “impacted households” as laid out in the Treasury Department’s final rule for use of Rescue Plan funds, states should be able to use those funds to cover the loss of state revenue that adopting the rule would cause. Ultimately, splitting child support deducted from tax refunds with the federal government does not accrue much financial benefit to the state — but child support can be a significant source of income for a family struggling to make ends meet.

⁶ Harry Holzer, Paul Offner, and Elaine Sorensen, “Declining Employment among Young Black Less-Educated Men: The Role of Incarceration and Child Support,” Urban Institute, April 1, 2005, <https://www.urban.org/research/publication/declining-employment-among-young-black-less-educated-men>.

⁷ Darrick Hamilton, Algernon Austin, and William Darity, Jr., “Whiter Jobs, Higher Wages: Occupational segregation and the lower wages of black men,” Economic Policy Institute, February 28, 2011, <https://files.epi.org/page/-/BriefingPaper288.pdf>.

⁸ Ashley Nellis, “The Color of Justice: Racial and Ethnic Disparity in State Prisons,” Sentencing Project, October 2021, <http://cdn.cnn.com/cnn/2021/images/10/13/the-color-of-justice-racial-and-ethnic-disparity-in-state-prisons.pdf>.